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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re

Oscar Edward Salgado,

Debtor(s).

U.S. Bank National Association ND, its
assignees and/or successors in interest,

Movant,

vs.

Oscar Edward Salgado,
Thomas A. Aceituno, Trustee,

Respondents.

Case No: 10-42766

Motion No. LAZ#1

CHAPTER 7

**MOVANT U.S. BANK NATIONAL
ASSOCIATION ND'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY**

**Local Rule 4000-1 and Local Rule
9014-1 (f)(2)**

Hearing -

Date: October 4, 2010

Time: 9:00 AM

Place: Courtroom 28, 7th Floor
501 I Street
Sacramento, CA

U.S. Bank National Association ND, its assignees and/or successor in interest ("Movant" herein), moves this Court for an Order terminating the Automatic Stay of 11 U.S.C. §362 as to Movant (and the Trustee under the Deed of Trust securing Movant's claim) so that Movant (and its Trustee) may commence and continue all acts necessary to foreclose under the Deed of Trust secured by Debtor's property, generally described as **583 Brassie Avenue, Kings Beach CA 96143** ("Property" herein).

1 Movant alleges the value of the Property to be approximately \$270,000.00 based upon
2 Schedule D- Creditors Holding Secured Claims of the Debtors' Schedules. Attached hereto as
3 **Exhibit "3"** is a copy of Schedule D- Creditors Holding Secured Claims of the Debtors'
4 Schedules. Movant requests that the Court take Judicial Notice, pursuant to Federal Rules of
5 Evidence Rule 201, of the attached Exhibit as to the issue of value of the subject Property.

6 There is currently a First Trust Deed upon the Property in favor of Bank of America,
7 securing a Promissory Note in an unknown original amount. The present unpaid principal
8 balance of said Note is \$110,000.00 as listed on Schedule D-Creditors Holding Secured Claims
9 of the Debtors' Schedules. Attached hereto as **Exhibit "3"** is a copy of Schedule D-Creditors
10 Holding Secured Claims of the Debtors' Schedules.

11 There is also currently a Third Trust Deed upon the Property in favor of Bank of
12 America, securing a Promissory Note in an unknown original amount. The present unpaid
13 principal balance of said Note is \$122,000.00 as listed on Schedule D-Creditors Holding Secured
14 Claims of the Debtors' Schedules. Attached hereto as **Exhibit "3"** is a copy of Schedule D-
15 Creditors Holding Secured Claims of the Debtors' Schedules.

16 Movant alleges that there appears to be no equity with respect to the subject Property,
17 that Movant is not adequately protected, that the Property is not necessary for an effective
18 reorganization, and that cause exists, in that Movant is not receiving its regular monthly
19 payments, and/or that it would be unfair and inequitable to delay Movant in the foreclosure of
20 Movant's interest in the subject Property. 11 U.S.C. Section 362(d).

21 In the event neither Debtors nor Debtors' Counsel appear at a Hearing on this Motion, the
22 Court may grant relief from the Automatic Stay permitting Movant to foreclose on the subject
23 Property and obtain possession of such Property without further Hearing.

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2 WHEREFORE, Movant prays for an order as follows:

3 (1) For an Order granting relief from Automatic Stay, permitting Movant to move
4 ahead with Foreclosure proceedings under Movant's Trust Deed, and to sell the subject Property
5 at a Trustee's Sale under the terms of said Trust Deed including necessary action to obtain
6 possession of the Property.

7 (2) For an Order waiving the 14-day stay provided by Bankruptcy Rule 4001(a)(3).

8 (3) For an Order binding and effective despite any conversion of this bankruptcy case.

9 (4) For an Order allowing Movant to be permitted to offer and provide Debtors with
10 information re: a potential Forbearance Agreement, Loan Modification, Refinance Agreement, or
11 other Loan Workout/Loss Mitigation Agreement, and to enter into such agreement with.
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13 (5) For such other relief as this Court deems appropriate.
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15 DATED: September 16, 2010

Respectfully submitted

16 **LAW OFFICES OF LES ZIEVE**

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18 /s/ Matthew D. Tokarz

19 By: MATTHEW D. TOKARZ
20 Counsel for Movant
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